

### AMENDMENT TO THE DRAWINGS

Please amend Figures 1, 1A, 2, 3, 4, 8, 9, 10 and 12 per the attached marked-up copies thereof and wherein the proposed changes are show in red and from which the formal drawings will be prepared. Applicant request to defer the preparation of the replacement drawings until the changes have been approved.

## REMARKS

Applicant thanks the examiner for his attention to the application.

In regard to the rejection of claims 13-19 and 21-22, enclosed find a copy of an assignment of the published application (2004/0159266) to Fisch et al. and the subject application (10/601,138) to the same assignee (i.e. Poly-Flex, Inc.). In view of 1) the different inventors and 2) the common ownership of the cited application (10/368,284) and the subject application (10/601,138), applicant requests the examiner to withdraw his objections under 35 USC §103(c) to claims 13-19 and 21-22 and pass the claims to allowance.

Claims 1-22 and 24-28 are pending in the application. Claim 20 was withdrawn by the examiner and the remaining claims have been rejected under the art. Claim 5 is stands rejected under 35 USC §112 as being indefinite or requiring clarification. Objection is made to informalities at claims 1-10 and 26-28. Otherwise, claims 1-9, 11, 12 and 24-28 stand rejected as being anticipated under 35 USC §102 by Shuert (5,401,347). Claim 10 stands rejected as being obvious under 35 USC §103 over Shuert. Claims 13-19 and 21-22 stand rejected as being obvious under 35 USC §103 over Shuert in view of Heil (6,112,672) and Fisch (2004/0159266).

With respect to the objection to claim 5, applicant has amended the Figures to distinguish the channels 36, 37, 47 and 49 formed in the second portion's outer surface and wherein the tines of a fork lift are inserted. As is apparent from Figure 4, the distal ends of the humps 56a at the interior surface of the first portion 12 lie closer to the channels 36 and 37 than do the bottom or outer surfaces of the legs 38, 39 and /or the feet

40-45. Claim 5 should therefore no longer be indefinite and applicant requests the examiner to withdraw his objection.

Claims 1-10 and 26-28 have been amended to overcome the noted informalities and should no longer be objectionable.

Shuert (5,401,347) is cited at Figs. 10-19 for showing a vacuum formed or thermoformed pallet having a first sheet with a flat outer surface 30 and undulating ridges and valleys (i.e. actually hollow bosses 30b) that are interdigitated with the bosses 32b that project from the inner surface of the lower sheet 32.

Upon a closer review of the disclosure of Shuert, including the description at column 4, line 37 through column 5, line 27 and Figures 7 and 8 to the pallet 10, it is clear that Shuert teaches the contact between the conical bosses 14b and 16b occurs only at the surfaces of tangential contact. A tangential contact is also taught to the pallet 12 between the bosses 30b and 32b shown at Figures 10-12 and described at column 5, line 38 through column 6, line 35. Lines 59-61 at column 5 of Shuert particularly state that the same intermeshing occur between the bosses 30b and 32b as described with respect to the pallet structure 10.

Hollow spaces or openings 28 otherwise are provided between the rows of intermeshed bosses.

In contrast and as shown at Figure 4 and elsewhere, applicant's claimed blow molded pallets provide wave-shaped or corrugated inner surfaces. The humps 36 and valleys 58 of each wave and/or ridges 52 and grooves 48, formed along the length of a single wave, are molded to complementary shapes, such that upon interdigitation, each depending wave from the first portion substantially mates along all surfaces with each

upright wave from the second portion in all regions of interdigitation or overlap. No spaces occur in the regions of overlapped interdigitation.

Applicant's complementary interdigitation is particularly obtained in view of his mounting of one pallet portion is a mold for the other pallet portion and use of the inner surface of the one pallet portion as the molding surface for the adjoining inner surface.

Neither the configuration of a wave-shaped inner surface nor the interdigitation with a complementary wave-shaped surface is disclosed, suggested or to be inferred or is any motivation thereto provided from the Shuert disclosure. Moreover, Shuert does not disclose the further forming of secondary waves (i.e. ridges 52 and grooves 48) within each primary wave such as provided at claims 8 and 30.

Independent claims 1, 11 and 26 have been amended to define the distinguishable, complementary, wave shaped inner surfaces and mating interdigitation of the waves with each other and should no longer be objectionable in view of Shuert. Related dependent claims 2-9, 12, 24, 27 and 28 further define other novel combinations and should also no longer be objectionable in view of Shuert.

With respect to claims 13-19 and 21-22, Heil is cited for showing the use of blow molding to construct pallet parts and argued as being useable to mold Shuert's pallet(s).

Heil provides no disclosure in regard to the configuration of the interiors of his base 22 and tray 24. He does disclose recesses 46 in an upper surface of the base that receive depending pads 44 of an inverted tray 24. The alternative mountings of the tray 24 are intended to support conventional or unconventional loads. Support blocks comprised of solid and shock absorbing materials are also shown.

Heil therefore makes no disclosure, suggestion, inference or provides any motivation to other than blow molding a two section pallet assembly. The disclosed separate and discrete sections are taught to only stack or nest upon each other. Even therefore if it were possible to blow mold the structure of Shuert without undue experimentation, Heil alone or in combination with Shuert does not teach, suggest or provide any inference or motivation to arrive at applicants' claimed pallets and methods.

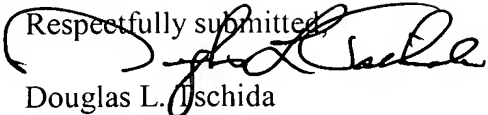
Fisch (**published Poly-Flex application**) is cited for showing a two-piece pallet wherein a first piece is inserted into the mold for a second piece. As noted above, however, Fisch should no longer apply 35 USC §103(c) in view of the common ownership.

New claims 29 through \_\_ have been included to further define the invention the complementary mating nature of applicants' wave-shaped, undulating, corrugated and interdigitated inner surfaces.

All amended and new claims should therefore be allowable over the cited art. No new matter has been entered with any of the foregoing amendments. Applicant requests the examiner's reconsideration and passage of the application to allowance and an early notice thereto. Prior to entry of any further action not containing allowable claims or subject matter, applicant also requests an opportunity to discuss the claims with the examiner.

If any matters remain that can be handled with a telephone conference, the

examiner is encouraged to contact the undersigned.

Respectfully submitted,  
  
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Enclosures